



273 North Spruce Drive • Anaheim, CA 92805-3447

November 23, 2015

The Honorable Jose Huizar  
Councilmember, District 14  
City of Los Angeles  
200 North Spring Street, Rm. 465  
Los Angeles, Ca 90012

**Re: Comments on Small Business Concerns Over Proposed Clean Up Green Up Ordinance  
CPC-2015-1462-CA**

Dear Councilmember Huizar:

The California Small Business Alliance (Alliance) is a coalition of trade associations committed to protecting small business interests. To meet the challenges facing small businesses, Alliance members: 1) play an active part in key committees, task forces, policy forums, and working groups, 2) advise government agencies in identifying the most cost-effective and least economically debilitating measures to regulate small businesses; 3) produce position papers and technical reports to enable regulators, public officials, economists, environmental groups, and business organizations to help them to better understand the processes, costs, and compliance challenges that small businesses face.

Our purpose for writing is to inform you of a number of serious, legitimate concerns we have about the detrimental impacts that the Clean Up Green Up (CUGU) ordinance, which was drafted by the Department of City Planning, is likely to have on the three pilot communities of Boyle Heights, Wilmington and Pacoima, and for that matter, the City of Los Angeles. Moreover, if the ordinance is approved and implemented in its present form, any meaningful benefit to the environment, and reduction in health risk to the public from air pollution and toxic air contaminants, is problematic at best. On the other hand, the likelihood that the version of ordinance, as drafted by the Department of City Planning, if approved and implemented, will contribute to a decline in business growth and meaningful employment is the more likely outcome.

This ordinance falls far from the original intent of the CUGU initiative, by neglecting to set the stage for an ombudsman and incentives to educate, motivate, and assist small business owners toward more environmentally healthy practices. Further, this proposal does little to address pollution in the City. Most of the requirements in the ordinance (e.g. fencing, building height, storage space, area lighting, noise abatement, tree planting) are completely unrelated to the "cumulative environmental effects" rationale for the CUGU ordinance and are contrary to the intent of a council motion made on June 19, 2013, that directed City Planning to identify strategies to reduce or clarify duplicative or contradictory regulation with respect to CUGU. There is no evidence showing that these requirements are necessary or have any environmental benefit. Clearly, no consideration was given to the fact that there are striking differences in the needs of small businesses vs. those of larger businesses. To expand on this point, large businesses typically own the land and buildings on which they conduct their commercial/industrial enterprises. Smaller businesses, on the other hand, usually lease property from landlords. In the course of developing their report and proposed ordinance City Planning seems to have failed to consider what course of action

would be available and acceptable to small business owners when landlords refuse to invest in these new CUGU ordinance mandates governing new business sitings or core business expansions. This oversight could place the life savings of hundreds of small business owners in extreme jeopardy.

Instead, the ordinance adds burdensome and unnecessary regulations on legitimate, tax-paying and job generating businesses. The effect of these additional regulations, in many cases will add delays and costs which serve as a disincentive and deterrent to the private sector to utilize environmentally friendly opportunities, to invest and improve, and to retain and create jobs in the very communities which the original motion intended to “assist” thru economic revitalization; nor does it progress the original version’s environmental objective. This is a classic case of good intentions resulting in unintended consequences.

### **Original Intent of the CUGU Program**

In May of 2012, CUGU proponents publicly announced to that the intended for the program to focus on municipal policy reflecting best practices in public health and environmental agencies’ recommendations on how to effectively address the problem of toxic hot spots in these three communities. It was their stated intent that the CUGU program was to reduce the exposure to air toxics throughout the jurisdiction of the South Coast Air Quality Management District (AQMD) with emphasis on cumulative impacts.

An honest and objective reading of the report prepared by City Planning, together with the proposed ordinance, clearly reveals that the terms “air toxics,” “toxic hot spots,” or “cumulative impacts” do not even appear in the text. Moreover, Alliance members have participated in every stakeholder meeting that City Planning convened, as directed by the City Council, and none of us can recall an AQMD representative attending any of them. What is even more disconcerting – considering that approximately 90 percent of the pollution and toxic air contaminants enters these three pilot communities from mobile sources travelling over adjacent freeways and other high-traffic thoroughfares – is that the California Air Resources Board (CARB), the lead agency having jurisdiction for mobile sources, had no representative in these City Planning meetings either. The only meeting in which a CARB representative was in attendance was one that was convened by the Alliance who had the foresight to invite them.

### **Additional, Not Less, Burdens Placed on Small Businesses**

At the beginning of this letter, I wrote that the report by City Planning, and their draft ordinance falls far short of the goals, objectives, and expectations of the CUGU proponents and the direction given by the City Council in their Motion of June 19, 2013. I also cited examples of some glaring deficiencies. Following are some examples of other deficiencies in Planning’s report and draft ordinance:

Alliance members are concerned about the likelihood of the proposed CUGU ordinance adding to an already lengthy permitting process because of any new, expanded or intensified requirements being imposed by the yet-to-be-named Ombudsman. We believe that a time limit, or accountability clause (such as 30 days), for processing, approving and issuing of permits, adjustments and exceptions, should be written into the ordinance.

Alliance members are concerned that little or no consideration or analysis seems to have been given to the additional costs that businesses – especially small businesses – wanting to site or expand in any of the three target communities will incur as the result of the additional time that will be required by the Ombudsman to process, approve and issue permits, adjustments and exceptions. This is especially concerning in instances where small business owners are leasing the premises and must pay rent on space that they cannot legally use for the purpose intended without a valid permit. It is also conceivable that situations could arise when a small business permit applicant is granted a permit to construct or operate

by the AQMD, but then is denied a permit, license or authorization by the Ombudsman or City of Los Angeles. Scarce and precious capital belonging to struggling small business owners could be unnecessarily put in jeopardy. And finally, it is clear that City Planning staff didn't even consider the fact that some landlords might be reluctant to invest in the highly prescriptive and burdensome mandates that will be part of this new ordinance, just to accommodate their tenants. Rather, they are more likely not to renew the leases for certain businesses.

During an Alliance review of the Recitals (statements of fact) in Appendix A of the proposed ordinance, we became concerned that the law does not address how many Recitals will be implemented and benefit the public, environment, economy, and the businesses within the boundaries of the three pilot communities.

For example:

- *WHEREAS, the cumulative environmental impacts resulting from concentrated industrial land use, on-road vehicle travel, and heavily freight-dominated transportation corridors in close proximity to homes, schools and other sensitive uses is a pervasive problem in Los Angeles;*
  - The proposed ordinance contains exhaustive details when describing zone classifications, lighting specifications, distance restrictions in feet and inches, trash receptacle enclosure measurements, fence and wall material descriptions and measurements, allowable shrub and tree species, signage specifications, and more.

The proposed ordinance even contains a paragraph (see NOTICE) acknowledging that the “*cumulative impacts*” of air pollution includes emissions from sources other than stationary sources within the geographic boundaries of the three target communities.

*NOTICE: Air pollution studies show a strong link between the chronic exposure of populations to vehicle exhaust and particulate matter from major roads and freeways and elevated risk of adverse health impacts, particularly in sensitive populations such as young children and older adults. Areas located within too fee of the freeway are known to experience the greatest concentration of ultrafine particulate matter and other pollutant implicated in asthma and other health conditions.*

- One suggested way for the proposed ordinance to be fair to all businesses, especially small businesses, and more protective of public health, is for the ordinance to require that the myriad unlicensed and/or unpermitted businesses operating within the boundaries of the three pilot communities to be identified, inventoried, and brought into compliance with existing city, county, state, and federal regulations. As the ordinance is currently written only properly licensed businesses which are presumed to be operating in accordance with their permit limits will be subject to increased regulation. By allowing the ordinance to deliberately ignore or disregard the harmful pollutants and lost revenues from the many renegade commercial enterprises in these three pilot communities the public will be left less protected, and badly-needed taxes will continue to be uncollected. Moreover, by having city officials continue to ignore or allow unlicensed and/or unpermitted businesses to operate anywhere in Los Angeles places legitimate, law-abiding, job-creating small businesses at a significant competitive disadvantage.

- While the Alliance realizes that the proposed ordinance can do little to reduce harmful emissions from the exhaust from vehicles travelling on nearby freeways, we suggest – even urge – the City Council to consider adding a provision in the new law that mandates that traffic signals in the three target communities be synchronized so as to expedite vehicle commuting times and minimize engine idling times. This would have the effect of expediting the flow of traffic through these communities, reduce engine idling times at stop lights, and should reduce harmful emissions from the major source of air pollution and toxic air contaminants in these three pilot communities.
- ***WHEREAS**, many businesses in the most adversely affected communities would greatly benefit from an ombudsperson assisting with environmental regulation compliance and applying financial incentives and technical support programs; and, .....*
  - The proposed ordinance is silent on the specific responsibilities of the ombudsperson to assist with environmental regulation compliance. In light of the exhaustive detail given to the many prohibitions, restrictions and requirements found elsewhere in the new law, we believe that both businesses and the public have a right to know what tangible benefits will flow from this ordinance.
  - The proposed ordinance is silent on the specific financial incentives that are available to all businesses, but especially small businesses, and what the qualifying criteria is for these financial incentives. In light of the exhaustive detail given to the many prohibitions, restrictions and requirements found elsewhere in the new law, we believe that affected businesses – especially small business owners – have a right to know what financial incentives will be available to them before the ordinance is approved.
  - The proposed ordinance is silent on the specific technical support programs that are available to all businesses, but especially small businesses, what the qualifying criteria are for this technical support, and if this support is provided *free*, or for a *fee*, to all businesses, or only to certain businesses. In light of the exhaustive detail given to the many prohibitions, restrictions and requirements found elsewhere in the new law, we believe that all businesses, but especially small business owners, have a right to know the details of the technical support that will be available to them.

### **No Metrics for Success**

All businesses, including small businesses, are continually evaluated by their customers on the quality of the products they produce, the prices they charge and the service they deliver. Publicly traded companies are also evaluated by their investors. Good public policy dictates that government offices and programs have in place acceptable performance metrics to determine how successfully they're delivering services to citizens and adhering to legislative regulations. These are totally missing from the ordinance drafted by City Planning. Alliance members believe that a set of agreed upon performance metrics must be developed and approved before the ordinance becomes law.

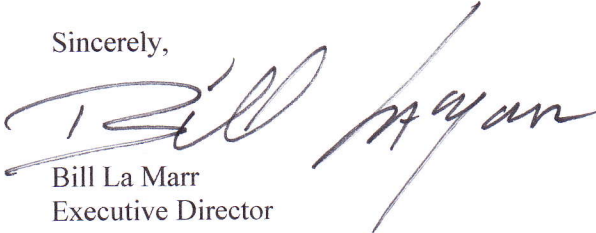
The California Small Business Alliance was invited to participate in the planning and development of the proposed CUGU ordinance. We believe that we have respected the challenge and contributed our time, talent and expertise to help craft an ordinance that would balance the concerns and needs of the public as

of employers already doing business in the three pilot communities, as well as any small businesses that might contemplate siting or expanding their operations therein. Regrettably, we believe that the proposed CUGU ordinance will have a chilling effect on decisions by business owner/operators – particularly small businesses – to invest and create or add jobs in these communities because of the additional mandates. As such, it is the strong recommendation of the Alliance that the PLUM Committee reconsider moving forward with the ordinance unless and until the deficiencies and recommendations we've cited in this letter are addressed and included in the final ordinance. Should you decide to accept our recommendations, we would also like to recommend that this vetting process be conducted by a neutral facilitator.

Initially, the cost for implementing the CUGU program was expected to be in the neighborhood of \$100,000 per year. It is our understanding that a recent analysis now puts that number at 10 times that amount, or over \$1 million dollars. And the program hasn't even begun! Small business owners, and the tax paying public, should be protected from their elected officials committing them to pay for speculative misadventures such as this.

If you have any questions, please do not hesitate to contact Bill La Marr, Executive Director, at (714) 778-0763.

Sincerely,



Bill La Marr  
Executive Director

cc: Councilmember Joe Buscaino, 15<sup>th</sup> District  
Sharon Dickenson, Legislative Assistant, City of Los Angeles